

Submit  
original

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

:  
**In re :** Chapter 11 Case No.  
:  
**LEHMAN BROTHERS HOLDINGS INC., et al., :** 08-13555 (JMP)  
:  
**Debtors. :** (Jointly Administered)  
:  
:

-----X

**NOTICE OF MOTION AND MOTION UNDER RULE 60 WITH RESPECT TO  
LAZARD AND SUN AND MOON**

Now comes William Kuntz, III who appears here Pro Se and submits the following for the Court's Consideration.

Sirs/Madam:

Please take Notice that the undersigned will move upon the annexed papers and those papers already placed before the Court at a time and place that have yet to be fixed for a Order. Please take Notice that the Court may Rule with or without a Hearing and with or without any Papers in Opposition.

**MOTION/BACKGROUND**

1) After the last hearing before the Court, this party returned to upstate New York to await a communication from the Debtor consistent with the expressed wish of the Court in respect to the 85 10<sup>th</sup> Leasehold. While enjoying the end of summer, having come across a copy of Ovid's Metamorphoses and Tacitus's Agricola and Germania which provided much interesting but difficult reading I awaited Developments. As of the afternoon of the 12<sup>th</sup> of September, 2010 nothing has come with respect to this property.

FILED  
U.S. BANKRUPTCY COURT  
2010 SEP 13 P 3:50  
S.D. S.F. N.Y.

Further, it does not appear to have been put onto the Court's Agenda<sup>1</sup> of the 22<sup>nd</sup><sup>2</sup> as of a review a few days ago.

### Lazard

2) As the Court may recall, and as set down in Orders dated Aug 18, 2010 <docket 10869> And dated Aug 20, 2010 <docket 10954> the Court respectfully approved the Lazard and Sun and Moon Matter. As the Court may further recall, it also entertained on the 18<sup>th</sup> the Appaloosa Objection with regards to the Innkeepers Matter. As the Court may now also be aware, Bankruptcy Judge Chapman found the entire Lehman-Innkeeper 'arrangement' to be a contrivance as reporter in the NY Post.

**NEW YORK POST**

Updated: Thu., Sep. 9, 2010, 3:07 AM



## Apollo slammed

By KAJA WHITEHOUSE

Last Updated: 3:07 AM, September 9, 2010

Posted: 1:28 AM, September 9, 2010

An investment firm managed by Leon Black's Apollo Global Management got slammed by a US Bankruptcy Court judge for hammering out an inside deal to restructure a hotel company it controls in a way that would only benefit itself and a single other creditor, according to a newly released transcript showing the details of the judge's ruling.

"This is not what Chapter 11 is supposed to be about," judge Shelley Chapman said in an unusually harsh critique last week before smacking down the restructuring, according to a transcript of the ruling obtained by The Post.

At issue is a prepackaged bankruptcy plan for Innkeepers, a real estate investment trust that owns 72 hotels under brands such as Hilton, Hyatt and Marriott.

The plan called for one of Innkeepers' secured creditors, the estate of bankrupt brokerage firm Lehman Brothers, to get all the equity in the new, reorganized company and then to turn around and sell half of its stake to the investment firm, Apollo Investment Corp., at the bargain-basement price of \$107.5 million.

---

<sup>1</sup> Regretfully, once again the Court's Internet site is down on the weekend

<sup>2</sup> Movant finds now that he has a prior engagement in Barnstable District Court on the 22<sup>nd</sup> in an adjournment of Kuntz-vs-FedexKinko's and at this point it is unclear if FedexKinko's would consent to a further adjournment in order for Movant to come to New York.

All other investors, including David Tepper's hedge fund Appaloosa and the preferred shareholders, would be left holding the bag. They howled in protest and brought the issue before the judge -- who ruled in their favor.

Chapman ripped into the deal, saying it lacked "due care," "good faith" and "disinterestedness."

"The intention for Apollo [Investment Corp.] to end up with half of the debtors' equity. . . has been, at best, downplayed and, at worst, obfuscated from parties-in-interest," she said.

Black's investment firm Apollo Global Management manages Apollo Investment Corp., the fund that owns Innkeepers. AIC owns the bankrupt Innkeepers through an affiliate, but Chapman described AIC as Innkeepers' "ultimate parent."

Lehman provided AIC with a \$1.2 billion loan in 2007 to help buy Innkeepers.

Chapman also had harsh comments for Marc Beilinson, Innkeepers' chief restructuring officer and a director of Apollo Commercial Real Estate Finance, another fund managed by Apollo Global Management. She found some of his testimony to lack credibility.

The judge also slammed Beilinson for barring any party besides Lehman to conduct due diligence on the entity.

"Innkeepers is taking the court's comment seriously and intends to be responsive to the court's concerns," Beilinson told The Post, adding that the company is "preparing to meet with all constituents in order to build consensus in the restructuring process."

"We will return to the drawing board and find a deal that is doable," said Bryan Marsal, CEO of Lehman.

An Apollo Global Management executive declined to comment citing the judge's orders. *kwhitehouse@nypost.com*

NEW YORK POST is a registered trademark of NYP Holdings, Inc.  
NYPOST.COM, NYPOSTONLINE.COM, and NEWYORKPOST.COM are trademarks of NYP Holdings, Inc.  
Copyright 2010 NYP Holdings, Inc. All rights reserved. Privacy | Terms of Use

Further, as the Court may note, Lazard is reporting record profits. Ex 1.

3) Insofar as the Official Transcript of the 18<sup>th</sup> is still embargoed until Nov 17, 2010

Movant can only recall that Lazard has problems with the Credit of Innkeepers and Lehman

ALI? All this is very interesting in that it reminds one of a Eastern Prep School kind of

Snobbery, in that while trolling the Bankruptcy Court's for Business, Lazard is 'shocked'

to find that there are problems. As one might recall, it was defect in Lazard's own

Engagement Letter which created this problem and the desire for Lazard to have

the Guarantee. Since Exhibit 1 reveals that Bankruptcy is driving increased profits at Lazard it seems well beyond absurd that Lehman should be bound by what Judge Chapman stated as "it lacked "due care," "good faith" and "disinterestedness."

Accordingly, the Court should revisit the entire matter and vacate the Order.

**Sun and Moon**

4) Would you lend a million dollars to somebody who does not even know the address of the Property? As it may be recalled, the Court mentioned a Local Rule with regards to calling a witness to the stand. While not yet acquainted with the Rule, it seems absurd that a Party would have to wait for the Proffer of Testimony to benefit from such a Rule. Further, mindful of Movant's suspect status in this Case, there is no intention to abuse the Court's Considerable Patience by trying to pull the lever's best left to more experience and highly paid Attorneys<sup>3</sup>.

In the few days since the Hearing, the world has changed quite a bit. Recent events have focused Islamic Hatred on the West and the Debtor no longer will enjoy any possible conceal ownership in a French City with a very high Moslem<sup>4</sup> Population which may make it a target of terrorism over and above the normal French Predeliction for Labor/Communist unrest. Nor does Movant believe that the Debtor could obtain All Risk Insurance.

5) There was a discussion that after the initial Cash Outlay that risk would Somehow be curtailed by making advances. However, depending on just how that is done, it may in the end be ill-advised, in that the construction might be done in such a process that nothing with be habitable or rentable until well into

---

<sup>3</sup> Movant recalls that he stated that there had been 1,000 Pro Hac Vice Admission. Not having access to a Blackberry like Mr. Waisman, that was a mistake. The Epiq Data Base reveals only 428 items in that regard.

<sup>4</sup> Muslim (between 150,000 and 200,000) <http://en.wikipedia.org/wiki/Marseille>

the Future. Futher, nothing was said about Currency Risk. As the Currency of France is the Euro and it has already declined over 25% since the beginning of the Greek Debt Crisis<sup>5</sup> there is nothing presented which would give any kind of reasonable assurance that the additional funds would just not go into a black hole and be lost.

Accordingly, the Sun and Moon Order should be vacated and the Debtor required to produce much more information and evidence.

So far, the Court has given the Debtor Carte Blanche<sup>6</sup> with respect to every request that this party can recall. This might be well and good if all the soothing language put down on paper proves to be correct. However, and as reported, not all things are going well in the World Economic's <Exhibits> and it would be useful for the Court to re-review the very well constructed Objection of Apalloosa to see that not all bright legal minds come to the same conclusion as Weil, Gotshal and the so-called Creditors Committee. It might be useful for the Court to review *in camera*<sup>7</sup> the Creditor's Committee's Subcommittee's Minutes/Transcript to see what the actual thinking is rather than the cookie cutter assurances

of Milbank, Tweed

Respectfully,

  
William Kuntz, III

India St PO Box 1801

Nantucket Island, Ma 02554-1801

508-775-5225

Sept 12, 2010

Hyannis, Ma

---

<sup>5</sup> [http://commons.wikimedia.org/wiki/File:Euro\\_exchange\\_rate\\_to\\_USD.svg](http://commons.wikimedia.org/wiki/File:Euro_exchange_rate_to_USD.svg)

<sup>6</sup> [http://en.wikipedia.org/wiki/Carte\\_blanche](http://en.wikipedia.org/wiki/Carte_blanche)

<sup>7</sup> [http://en.wikipedia.org/wiki/In\\_camera](http://en.wikipedia.org/wiki/In_camera)

Thursday, July 29, 2010 3

THE WALL STREET JOURNAL

# DEALS & DEALMAKERS

## Lazard's Profit Jumps 58%

*Operating Revenue Surges at Asset-Management, M&A Advisory Arms*

BY NATHAN BECKER

NEW YORK—Lazard Ltd.'s second-quarter earnings surpassed Wall Street projections as the investment bank reported robust results from its asset-management business.

The asset-management arm, which has expanded in the past year to help balance the company's more-volatile financial advisory business, reported a 42% increase in operating revenue to \$187.2 million.

Assets under management increased to \$123.5 billion from \$98 billion a year earlier, but fell from \$135 billion at the end of

the prior quarter amid the stock market's declines.

"This is an environment where outflows are almost commonplace among asset managers, and we once again had inflows for the quarter," Chief Financial Officer Michael J. Castellano said. "The performance of the markets demonstrates the power of the Lazard franchise, giving advice that is particularly valuable in uncertain times like we have right now."

Lazard reported a profit of \$44.6 million, or 39 cents a share, up 58% from \$28.2 million, or 34 cents a share, a year earlier. Revenue increased 12%

to \$419 million.

Analysts polled by Thomson Reuters had most recently forecast earnings of 38 cents a share on \$420 million in revenue.

**It reported robust activity in the division that gives restructuring and bankruptcy advice.**

The company's results were helped recently by robust activity in its division that provides advice for restructuring and

bankruptcy services that are in high demand in the wake of the financial crisis. Mr. Castellano said the restructuring business has slowed somewhat as companies steady themselves.

Lazard's mergers advisory group posted operating revenue of \$145.9 million, up 8% from a year ago. The investment bank advised on deals including OSI Pharmaceuticals' \$4 billion sale to Astellas Pharma.

At 4 p.m. in New York Stock Exchange trading, Lazard shares were down 36 cents, or 1.2%, to \$29.83.

—Joe Bel Bruno  
contributed to this article.

THURSDAY, SEPTEMBER 9, 2010

THE BOSTON GLOBE



MIGUEL MEDINA/AFP/GETTY IMAGES

French labor leaders called Tuesday's nationwide strikes, which forced the closure of schools and snarled traffic as more than a million people took to the streets, a major success. Six groups met yesterday to plan a fresh round of protests, slated for Sept. 23.

# French unions plan new strikes

By Sylvie Corbet  
ASSOCIATED PRESS

PARIS — French President Nicolas Sarkozy vowed yesterday to press ahead with his contested overhaul of the country's pension system and unions promptly announced new national strikes and protests, a day after bringing more than 1 million people to the streets.

The conservative leader said he is "attentive to the worries that were expressed" by protesters, who protested in 220 French cities Tuesday. But Sarkozy reiterated it was "out of the question" to give up on the plan to raise the retirement age from 60 to 62 under the reform.

With baby boomers reaching retirement age and life expectan-



## A TEST FOR FRENCH PRESIDENT

Though he has said the he is willing to negotiate, Nicolas Sarkozy has stood firm on plans to raise the retirement age.

cy on the rise, the government insists the raised retirement age is necessary for the money-draining pension system to break even by 2018. The overhaul is seen as a cornerstone of Sarkozy's political agenda and a key test ahead of 2012 presidential elections.

Unions said it is a threat to hard-won social benefits and want the measure drastically scaled back. Mobilized by Tuesday's protests, six leading unions

met yesterday and announced new nationwide strikes and demonstrations for Sept. 23.

Speaking during a Cabinet meeting yesterday, Sarkozy conceded the government's willingness to negotiate on smaller details of the overhaul, including measures for the disabled and people in physically difficult professions.

The reform is "a lasting and just response that will allow us to

save our pension system," government spokesman Luc Chatel told reporters following the meeting.

Chatel added that Labor Minister Eric Woerth has been charged with amending the bill to reflect the small changes, which is to be voted on by the National Assembly, the lower house of parliament, next week.

Labor leaders have called Tuesday's strike a major success. The strike forced the closure of schools and snarled traffic throughout the country Tuesday, as more than 1.1 million people demonstrated throughout France, according to the Interior Ministry. The CFDT union put the number of protesters at 2.5 million.

Business RO

WEDNESDAY, SEPTEMBER 8, 2005

A woman pushed a demonstration yesterday in Paris, where French unions challenged President Nicolas Sarkozy with a major nationwide strike over plans to raise the retirement age from 60 to 62, cutting services on trains, planes, buses, and subways.

## French, London strikes are likely a prelude

By Angela Doland  
ASSOCIATED PRESS

PARIS — French strikers disrupted trains and planes, hospitals and mail delivery yesterday amid massive street protests over plans to raise the retirement age. Across the English Channel, London subway workers unhappy with staff cuts walked off the job.

The protests look like the prelude to a season of strikes in Europe, from Spain to the Czech Republic, as heavily indebted governments cut costs and chip away at some cherished but costly benefits that underpin the European good life — a scaling-back process that has gained urgency with Germany's \$140 billion bailout.

In France, where people poured into the streets in 220 cities, setting off flames and beating drums, a banner in the southern port city of Marseille called for Europe-wide solidarity: "Let's Defend Austerity Plans." The Interior Ministry said more than 1.1 million people demonstrated throughout France, while the CFDT union put the number at 2.5 million.

Some commuters were annoyed by the disruptions — seen in strike-saturated France.

"I'm just getting tired of this because this is not the first time," said Henda Fari, a passenger at the Part-Dieu train station in Lyon. "I understand the strikers' point of view but, still, they put us in a difficult situation, and we're penalized."

French protesters are angry about the government's plan to do away with the near-sacred promise of retirement at 60, forcing



With the Underground subway shut in London, vehicular traffic, bikers, and walkers were heavier on city streets.

ing people to work until 62 because they are living longer. The goal is to bring the money-drain-

ing pension system back into the black by 2018.

As debate on the subject

opened in parliament, Labor Minister Eric Woerth said the plan was one "of courage and realism" and that it is the "duty of the state" to save the pension system. He later told RTL television that the president would announce minor changes to the reform today, though its fundamentals would remain the same.

Prime Minister Francois Fillon reminded the French that it could be worse: In nearly all European countries, the current debate is over raising the retirement age to 67 (or 66), he said. Germany has decided to bump the retirement age from 65 to 67, for example, and the US Social Security system is gradually raising the retirement age to 67.

That sense of perspective was missing from many of the French protests, where some slogans bordered on the hysterical. One sign in Paris carried the message: "Greetings from people who will die on the job."

In London, Underground workers unhappy about job cuts closed much of the city's subway system — the first in a series of 24-hour strikes planned for the fall. The thousands of London maintenance workers, drivers and station staff who walked off the cuts will hurt service and safety.

With the underground train service shut, buses had to take extra loads, while vehicular traffic was heavy, and city sidewalks were teeming with walkers and bikers.

"The bus system has been mess today, but I got here," said Anita Prasadwala of South London.